REMARKS

The Office Action dated June 12, 2008 has been received and carefully noted. The above amendments to the specification and claims, and the following remarks, are submitted as a full and complete response thereto.

Claims 1-10, 12-22, 25, and 28 have been amended to more particularly point out and distinctly claim the subject matter of the invention. Claims 11, 23-24, and 26-27 have been cancelled without prejudice or disclaimer. New claims 29-54 have been added. No new matter has been added. Therefore, claims 1-10, 12-22, 25, 28, and 29-54 are currently pending in the application and are respectfully submitted for consideration.

As a threshold matter, while the Office Action indicated that claims 4 and 7 were rejected, the Office Action failed to provide a detailed analysis of the claims. A call to the Examiner was made, and the Examiner indicated that claims 4 and 7 were mistakenly omitted from the Office Action. The Examiner further indicated that the next Office Action would be a non-final Office Action and would include the status of claims 4 and 7. Accordingly, Applicants respectfully request that a new non-final Office Action be issued detailing the status of claims 4 and 7.

The Office Action objected to the specification because of minor informalities. Specifically, the Office Action indicated that at page 10, line 17, the abbreviation "MBMA" should be changed to "MBMS," and at page 12, line 12, element 24 should be changed to element 14.

Applicants respectfully submit that the specification has been amended to change the abbreviation "MBMA" to "MBMS," and to change "SGSN 24" to "SGSN 14." Applicants further submit that the amendments to the specification effectively moot the objecton. Accordingly, Applicants respectfully request that the objection be withdrawn.

The Office Action rejected claims 1-13 and 20-28 under 35 U.S.C. § 102(e) as allegedly being anticipated by Kim et al. (U.S. Publication No. 2004/0131026) ("Kim"). Applicants respectfully submit that said claims recite allowable subject matter for at least the following reasons.

Claim 1, upon which claims 2-9 are dependent, recites a method, which includes providing a service to at least one user equipment. The method further includes determining if the service is to be provided to the at least one user equipment by a point to point connection or a point to multipoint connection, the determining taking into account which of the at least one user equipment to which the service is providable is able to receive the service.

Claim 10, upon which claims 12-22 are dependent, recites a method, which includes activating a service which provides data to user equipment. The method further includes suspending the service when the user equipment is unable to receive data of the service. The suspending includes suspending the service if the user equipment has a different connection.

Claim 25, upon which claims 29-36 are dependent, recites an apparatus, which includes a processing unit. The processing unit is configured to provide a service to at

Application No.: 10/798,562

least one user equipment, determine if the service is to be provided to the at least one user equipment by a point to point connection or a point to multipoint connection, and determine which of the at least one user equipment to which the service is providable is able to receive the service.

Claim 28, upon which claims 37-48 are dependent, recites an apparatus, which includes an activating controller configured to activate a service which provides data to user equipment. The apparatus further includes a transmitter configured to transmit data to said user equipment. The apparatus further includes a suspending controller configured to suspend said service when said user equipment is unable to receive data of said service because said user equipment has a different connection.

Claim 49 recites a computer program, embodied on a computer-readable medium, for controlling a processor to implement a method. The method includes providing a service to at least one user equipment. The method further includes determining if the service is to be provided to the at least one user equipment by a point to point connection or a point to multipoint connection, the determining taking into account which of the at least one user equipment to which the service is providable is able to receive the service.

Claim 50 recites a computer program, embodied on a computer-readable medium, for controlling a processor to implement a method. The method includes activating a service which provides data to user equipment. The method further includes suspending the service when the user equipment is unable to receive data of the service. The

Application No.: 10/798,562

suspending includes suspending the service if the user equipment has a different connection.

Claim 51, upon which claim 52 is dependent, recites a method, which includes activating a service which provides data to user equipment. The method further includes suspending the service when the user equipment is unable to receive data of the service. The method further includes determining, after service suspension, if the user equipment receives the service again and to reactivate the service if the user equipment receives the service again.

Claim 53, upon which claim 54 is dependent, recites an apparatus, which includes an activating controller configured to activate a service which provides data to user equipment. The apparatus further includes a transmitter configured to transmit data to the user equipment. The apparatus further includes a suspending controller configured to suspend the service when the user equipment is unable to receive data of the service. The apparatus further includes a processing unit configured to determine, after service suspension, if the user equipment receives the service again and to reactivate the service if the user equipment receives the service again.

As will be discussed below, Kim fails to disclose or suggest all of the elements of the claims, and therefore fails to provide the features discussed above.

Kim generally discloses a method for determining whether to transmit MBMS data using a point-to-point (PTP) connection or a point-to-multipoint (PTM) connection.

Application No.: 10/798,562

The disclosed method takes account of the number of users in a cell and the total transmitted code power. (see Kim at Abstract, and paragraphs 0043-0044).

Applicants respectfully submit that Kim fails to disclose, teach, or suggest, all of the elements of the present claims. For example, Kim fails to disclose, teach, or suggest, at least, "*said determining taking into account which of said at least one user equipment to which said service is providable is able to receive said service,*" as recited in independent claims 1 and 49, and "*a processing unit, said processing unit being configured to ... determine which of said at least one user equipment to which said service is providable is able to receive said service,*" as recited in independent claim 25.

With respect to the aforementioned limitations of independent claims 1, 25, and 49, Kim discloses that the method considers the number of users located in a particular cell, or in other words, the number of users <u>desiring to receive</u> MBMS data. (see Kim at paragraph 0043, line 2, and paragraph 0044, line 3). In contrast, independent claims 1, 25, and 49 clearly recite that the number of users <u>able to receive</u> the service is taken into account when determining whether to use a point-to-point or point-to-multipoint service. Kim is silent as to considering the number of users in the measured cell actually <u>able to receive</u> the service. By taking into account a number of users able to receive a service rather than just counting the number of users in a cell, a more accurate number of users can be determined. Thus, a more effective use can be made of radio and hardware resources. (see Specification at paragraph 0057).

Application No.: 10/798,562

Therefore, Kim fails to disclose, or suggest, the aforementioned limitations of independent claims 1, 25, and 49.

Furthermore, Kim fails to disclose, teach, or suggest, at least *"wherein, said suspending comprises suspending said service if said user equipment has a different connection,"* as recited in independent claims 10 and 50, and *"a suspending controller configured to suspend said service ... because said user equipment has a different connection,"* as recited in independent claim 28.

With respect to the aforementioned limitations of independent claims 10, 28, and 50, the cited portion of Kim merely describes suspension of a service by a UE in relation to the UE moving out of a particular cell. (see Kim at paragraph 0086; FIG. 7). The cited portion of Kim fails to disclose, or suggest, suspending the service if the user equipment has a different connection, as required by independent claims 10, 28, and 50.

The Office Action took the position that paragraph 0086, and Figures 1 and 3, of Kim, disclose suspending the service if the user equipment has a different connection. Applicants respectfully submit that this position is erroneous. Figures 1 and 3 merely show that a UE can move out of one cell, and into another cell. (see Kim at Figures 1 and 3). Just because a UE has moved to another cell, does not necessarily mean that it has a different connection. It is not disclosed in Kim that a user equipment necessarily establishes a different connection when it moves out of the cell. Thus, Kim fails to disclose, or suggest, suspending the service to a user equipment which has a different connection.

Furthermore, by suspending the service if the user equipment has a different connection, the service need not be unnecessarily sent to a user which remains in the cell but is unable to receive the data. By contrast, the cited portion of Kim discloses that the system is only able to suspend the service if the UE moves out of the cell. Therefore, there could be users in the system disclosed in Kim who remain in the cell, but who have another connection, and might not be able to receive an MBMS service. Thus, radio and hardware resources could be unnecessarily used in the system disclosed in Kim.

Therefore, Kim fails to disclose, or suggest, the aforementioned limitations of independent claims 10, 28, and 50.

Therefore, for at least the reasons discussed above, Kim fails to disclose, teach, or suggest, all of the elements of independent claims 1, 10, 25, 28, 49, and 50. For the reasons stated above, Applicants respectfully request that this rejection be withdrawn.

Claims 2-9 depend upon independent claim 1. Claims 12-13 and 20-22 depend upon independent claim 10. Claims 29-36 depend upon independent claim 28. Thus, Applicants respectfully submit that claims 2-9, 12-13, 20-22, 29-36, and 37-48 should be allowed for at least their dependence upon independent claims 1, 10, 25, and 28, respectively, and for the specific elements recited therein.

The Office Action rejected claims 14-17 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Kim, in view of Koulakiotis et al. (U.S. Patent No. 7,031,694) ("Koulakiotis"). The rejection is respectfully traversed because Koulakiotis is invalid prior art under 35 U.S.C. § 103(a).

Applicants respectfully note that the present application was filed on March 12, 2004. Applicants further note that Koulakiotis has a patent date of April 18, 2006. Therefore, Koulakiotis qualifies as prior art against the present application, if at all, only under 35 U.S.C. § 102(e). However, both the present application and Koulakiotis were subject to an obligation of assignment to the same entity, namely Nokia Corporation. Evidence of the present application's assignment to Nokia Corporation may be found in the assignment recorded March 12, 2004, at reel 015081 and frame 0888. Evidence of Koulakiotis's assignment to Nokia Corporation may be seen on the cover page of Koulakiotis. Accordingly, it is respectfully submitted that Koulakiotis and the present application were both subject to an obligation of assignment to the same entity at the time of the invention, namely to Nokia Corporation. Therefore, according to 35 U.S.C. § 103(c), Koulakiotis is not valid prior art in support of a rejection of the claims in the present application under 35 U.S.C. § 103(a).

Applicants respectfully assert that the Office Action's rejection cannot stand without Koulakiotis, and thus the Office Action's rejection is respectfully traversed. Thus, Applicants respectfully request that the Office Action's rejection be withdrawn.

The Office Action indicated that claims 18-19 would be allowable if rewritten to include all of the limitations of the base claims and any intervening claims. Claims 18-19 depend upon independent claim 10. As independent claim 10 recites allowable subject matter, for the reasons discussed above, claims 18-19 also recite allowable subject matter. Accordingly, it is respectfully requested that claims 18-19 be allowed.
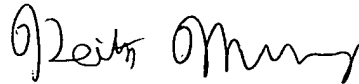
Application No.: 10/798,562

Furthermore, Applicants respectfully submit that new claims 51-54 recite subject matter which has been indicated as being allowable (i.e subject matter which is recited in claims 18-19, including subject matter recited in the base claims). Accordingly, it is respectfully respected that claims 51-54 be allowed.

For at least the reasons discussed above, Applicants respectfully submit that the cited prior art references fail to disclose or suggest all of the elements of the claimed invention. These distinctions are more than sufficient to render the claimed invention unanticipated and unobvious. It is therefore respectfully requested that all of claims 1-10, 12-22, 25, 28, and 29-54 be allowed, and this application passed to issue.

If for any reason the Examiner determines that the application is not now in condition for allowance, it is respectfully requested that the Examiner contact, by telephone, the applicants' undersigned representative at the indicated telephone number to arrange for an interview to expedite the disposition of this application.

Application No.: 10/798,562

In the event this paper is not being timely filed, the applicants respectfully petition for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account 50-2222.

Respectfully submitted,

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Enclosures: Additional Claim Fee Transmittal
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